

REMARKS

Claim 12 has been cancelled. Claim 11 has been amended to be in proper "method" claim format. Support for the amendments to claim 11 may be found on page 4, line 24 through page 5, line 2. As such, claims 1-11 are pending in the present application.

The Examiner has required election in the present application between:

Group I, claims 1-6, drawn to a hypoallergic immunogenic molecule derived from Ph1 p6;

Group II, claims 7-10, drawn to a method of hyposensitizing an mammal suffering from IgE-mediated allergy using Ph1 p6 allergen having an N-terminal deletion;

Group III, claim 11, drawn to a method of using the immunogen derived from Ph1 6 allergen for the in vivo diagnosis of type I allergy; and

Group IV, claim 12, drawn to a method of using the immunogen derived from Ph1 6 to prepare a medicament.

For the purpose of examination of the present application, Applicants elect, with traverse, Group I, claims 1-6.

Applicants respectfully request rejoinder of method claims 7-11 in view of In re Ochiai, 37 USPQ2d 1127 (Fed. Cir. 1995), In re Brouwer 37 USQP2d 1663 (Fed. Cir. 1996) and 35 U.S.C. 103(b).

Under the 35 U.S.C. §103(b), if claims drawn to a product of a chemical or biotechnological invention are found non-obvious over the prior art, previously restricted process claims drawn to methods of making and using the products should also be found non-obvious. Claims 7-11, of Groups II and III are drawn to methods of using the products of claims 1-6 of Group I. Applicants respectfully request that claims 7-11 be considered for rejoinder to the application, in the event that product claims 1-6, from which claims 7-11 depend, are found allowable over the prior art.

However, in the event that the Examiner chooses not to rejoin and consider all the claims, Applicants elect the claims of Group I, claims 1-6, with traverse, for examination on the merits. Applicants further reserve the right to file one or more divisional applications to the non-elected subject matter, if they so wish.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact MaryAnne Armstrong, PhD (Reg. No. 40,069) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

A marked-up version of the claims showing all amendments is attached hereto.

Appl. No. 09/696,169

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By *maarmstrong*
Gerald M. Murphy, Jr., #28,977

MaryAnne Armstrong, PhD, #40,069

GMM/MAA
1614-0244P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

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MARKED-UP VERSION SHOWING AMENDMENTS

IN THE CLAIMS

Claim 12 has been cancelled.

Claim 11 has been amended as follows.

11. (Amended) A method of diagnostic monitoring of hyposensitization therapy which comprises exposing a patient blood-derived sample to [The use of] the immunogen according to claim 1, or the immunogenic molecule combination according to claim 6, and detecting antibody binding to the immunogen [for the *in vitro* diagnosis of type I allergy in a mammalian individual].